

ALLEN BIAGGI, Administrator

(775) 687-4670
TDD 687-4678

Administration
Facsimile 687-5856

Water Pollution Control
Facsimile 687-4684

Mining Regulations & Reclamation
Facsimile 684-5259

State of Nevada
KENNY C. GUINN
Governor



R. Michael Turnnspeed, Director

Waste Management
Corrective Actions
Federal Facilities

Air Quality
Water Quality Planning

Facsimile 687-6396

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706

March 3, 2004

NOTICE OF DECISION

PERMIT NUMBER NV0023060

KERR-McGEE CHEMICAL, LLC

Kerr-McGee Chemical, LLC applied for a major modification to increase the discharge flow rate authorized by National Pollutant Discharge Elimination System Permit NV0023060. The determination of the Administrator of the Nevada Division of Environmental Protection, as presented in the draft fact sheet and incorporated into the modified permit, is to authorize the proposed increase in flow rate, subject to a reduced perchlorate effluent discharge limitation in accordance with the incorporated schedule of compliance.

The modified permit authorizes the discharge of 1.45 million gallons of treated groundwater daily as a 30-day average and 1.7 million gallons per day as a daily maximum. The perchlorate effluent discharge limitation for the operation and discharge from the fluidized bed biological reactor is 18 micrograms per liter ($\mu\text{g/L}$) given a 9-month schedule of compliance.

The modified permit becomes effective March 4, 2004. The final determination may be appealed to the State Environmental Commission pursuant to Nevada Revised Statutes 445A.605 and NAC 445A.407. The appeal must be requested within ten (10) days of the date of this notice of decision and in accordance with the administrative rules of the Commission.

RESPONSE TO COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD – JANUARY 22, 2004 THROUGH FEBRUARY 23, 2004

Letter from the Environmental Protection Agency, Douglas E. Eberhardt, Chief, CWA Standards and Permits Office, February 4, 2004.

Comment: *We recommend that the permit modification be revised to establish an effluent limitation of 18 ppb or lower.*

Response: An effluent limitation of 18 $\mu\text{g/L}$ is established in the permit.

Comment: *We recommend....that the modification include a reasonable schedule of compliance to allow for system start-up and acclimation.*

Response: A schedule of compliance has been incorporated into the permit. The system start-up and acclimation period is 9 months.

Letter from Metropolitan Water District of Southern California, Ronald R. Gastelum and Ed Smith, February 23, 2004.

- Comment: *Re-evaluate the perchlorate target effluent limit for the FBR on a quarterly basis and revised the permit limit accordingly.*
- Response: The interim perchlorate effluent limitation has been eliminated, and therefore, quarterly re-evaluation is no longer relevant. The final perchlorate effluent limitation is established at 18 µg/L.
- Comment: *Once adopted, consider California's drinking water standard for perchlorate, Clean Water Act requirements to protect downstream beneficial uses and maintain high quality waters, the total perchlorate load from the Kerr-McGee site and the impact of the discharge on water quality when Lake Mead levels are below normal when determining an appropriate final effluent limit. The final perchlorate limit should be no higher than 18 µg/L and possibly lower, depending on the factors just cited. The public should have an opportunity to provide comments on the final limit.*
- Response: The factors cited have been considered. A final perchlorate effluent limitation of 18 µg/L has been instituted into the permit.
- Comment: *NDEP should not have unilateral discretion to increase the effluent limit for perchlorate. Any proposal to increase the limit should be subject to public review*
- Response: The final perchlorate effluent limitation has been instituted at 18 µg/L. Modifications of this effluent limitation will be subject to public review and comment.
- Comment: *Review the discharge limits for total and hexavalent chromium and revise as needed. The review should consider California's drinking water standard for total chromium, the California drinking water standard for hexavalent chromium once one is adopted and the requirement to maintain high quality waters.*
- Response: This permit modification does not open or revise the effluent discharge limitations for total or hexavalent chromium. Consequently, these parameters are not currently subject to public comment; however, these effluent discharge limitations will be subject to review and public comment during future renewals.

Letter from ad hoc group of affiliates, February 23, 2004.

- Comment: *We oppose the proposed effluent limitations because interim discharge of perchlorate at 80 ppb to Las Vegas Wash...is in excess of: (1) the State of Nevada action level for drinking water; (2) U.S. EPA's reference dose equivalent of 4 to 18 ppb; and (3) proposed NPDES effluent in other states....Additionally, the proposed permit terms would not ensure that discharges do not cause or contribute to violations of numeric and narrative water quality standards, in violation of the Clean Water Act. Furthermore, the proposed permit is inconsistent with 40 CFR 122.44.*
- Response: An effluent limitation of 18 µg/L is established in the modified permit. Numeric water quality standards for perchlorate have not been promulgated.

NDEP Permit Revisions

In response to comments received, a perchlorate effluent limitation from the operation and discharge of the fluidized bed biological reactor system is established at 18 µg/L with a 9 month schedule of compliance.